

## Securities and Exchange Commission

## § 200.82

File No.	Type of filing	Retention period
	1. Supporting documentation .....	Until date of final action plus 5 years, if no report is issued, or until date of final report plus 5 years.
	2. Final reports .....	5 years.

[60 FR 50091, Sept. 28, 1995]

### § 200.81 Publication of interpretative, no-action and certain exemption letters and other written communications.

(a) Except as provided in paragraphs (b) and (c) of this section, every letter or other written communication requesting the staff of the Commission to provide interpretative legal advice with respect to any statute administered by the Commission or any rule or regulation adopted thereunder; or requesting a statement that, on the basis of the facts stated in such letter or other communication, the staff would not recommend that the Commission take any enforcement action; or requesting an exemption, on the basis of the facts stated in such letter, from the provisions of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) or any rule or regulation thereunder, where the issuance of an order granting such exemption does not require public notice and an opportunity for hearing; together with any written response thereto, shall be made available for inspection and copying by any person as soon as practicable after the response has been sent or given to the person requesting it.

(b) Any person submitting such letter or other written communication may also submit therewith a request that it be accorded confidential treatment for a specified period of time, not exceeding 120 days from the date the response, together with a statement setting forth the considerations upon which the request for such treatment is based. If the staff determines that the request is reasonable and appropriate it will be granted and the letter or other communication will not be made available for public inspection or copying until the expiration of the specified period. If it appears to the staff that the request for confidential treatment should be denied, the staff shall so advise the person making the request and

such person may withdraw the letter or other communication within 30 days thereafter. In such case, no response will be sent or given and the letter or other communication shall remain in the Commission's files but will not be made public. If such letter or other communication is not so withdrawn, it shall be deemed to be available for public inspection and copying together with any written response thereto.

NOTE: All letters or other written communications requesting interpretative advice, a no-action position, or an exemption shall indicate prominently, in a separate caption at the beginning of the request, each section of the Act and each rule to which the request relates. If more than one section or rule is involved, a separate copy of the request shall be submitted for each section or rule involved and an additional copy for the use of the staff of the Commission.

(c) This section shall not apply, however, to letters of comment or other communications relating to the accuracy or adequacy of any registration statement, report, proxy, or information statement or other document filed with the Commission, or relating to the extent to which such statement, report, or document complies with any applicable requirement. Further, this section shall not apply to applications or other written communications filed pursuant to § 240.24b-2 that relate to objections to public disclosure of information filed with the Commission or any exchange.

[35 FR 17779, Nov. 19, 1970, as amended at 53 FR 12413, Apr. 14, 1988; 53 FR 32605, Aug. 26, 1988]

### § 200.82 Public availability of materials filed pursuant to § 240.14a-8(d) and related materials.

Materials filed with the Commission pursuant to Rule 14a-8(d) under the Securities Exchange Act of 1934 (17 CFR

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240.14a-8(d)), written communications related thereto received from any person, and each related no-action letter or other written communication issued by the staff of the Commission, shall be made available to any person upon request for inspection or copying.

[37 FR 20558, Sept. 30, 1972]

### § 200.83 Confidential treatment procedures under the Freedom of Information Act.

(a) *Purpose.* This section provides a procedure by which persons submitting information in any form to the Commission can request that the information not be disclosed pursuant to a request under the Freedom of Information Act, 5 U.S.C. 552. This section does not affect the Commission's right, authority, or obligation to disclose information in any other context. This section is procedural only and does not provide rights to any person or alter the rights of any person under the Freedom of Information Act or any other applicable statute or regulation.

(b) *Scope.* The provisions of this section shall apply only where no other statute or Commission rule provides procedures for requesting confidential treatment respecting particular categories of information (*see, e.g.*, 17 CFR 240.24b-2) or where the Commission has not specified that an alternative procedure be utilized in connection with a particular study, report, investigation, or other matter. The provisions of this section shall not apply to any record which is contained in or is part of a personnel, medical or similar file relating to a Commission member or employee which would normally be exempt from disclosure pursuant to section 552(b)(6) of title 5, U.S. Code.

(c) *Written request for confidential treatment to be submitted with information.* (1) Any person who, either voluntarily or pursuant to any requirement of law, submits any information or causes or permits any information to be submitted to the Commission, which information is entitled to confidential treatment and for which no other specific procedure exists for according confidential treatment, may request that the Commission afford confidential treatment under the Freedom of Information Act to such information

for reasons of personal privacy or business confidentiality, or for any other reason permitted by Federal law, and should take all steps reasonably necessary to ensure, as nearly as practicable, that at the time the information is first received by the Commission (i) it is supplied segregated from information for which confidential treatment is not being requested, (ii) it is appropriately marked as confidential, and (iii) it is accompanied by a written request for confidential treatment which specifies the information as to which confidential treatment is requested.

(2) A person who submits a record to the Commission for which he or she seeks confidential treatment must clearly mark each page or segregable portion of each page with the words "Confidential Treatment Requested by [name]" and an identifying number and code, such as a Bates-stamped number. In his or her written confidential treatment request, the person must refer to the record by identifying number and code.

(3) In addition to giving a copy of any written request for confidential treatment to the Commission employee receiving the record in question, the person requesting confidential treatment must send a copy of the request (but not the record) by mail to the Office of Freedom of Information and Privacy Act Operations, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312-2413. The legend "FOIA Confidential Treatment Request" must clearly and prominently appear on the top of the first page of the written request, and the written request must contain the name, address, and telephone number of the person requesting confidential treatment. The person requesting confidential treatment is responsible for informing the Office of Freedom of Information and Privacy Act Operations promptly of any changes in address, telephone number, or representation.

(4) In some circumstances, such as when a person is testifying in the course of a Commission investigation or providing a record requested in the course of a Commission examination or inspection, it may be impracticable to